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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,353	07/05/2005	Mattias Nystrom	38148	9063

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PEARNE & GORDON LLP
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CLEVELAND, OH 44114-3108

EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/532,353	Applicant(s) NYSTROM ET AL.	
	Examiner Ghassem Alie	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 7-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/11/07 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election of Group I (Claims 5 and 6) in the reply filed on 01/11/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). It should be noted that Group I (claims 5 and 6) was inadvertently written as Group II (claims 5 and 6) in the restriction requirement mailed on 11/17/06.
2. Claims 7-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Groups II-II, there being no allowable generic or linking claim.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a lever or a button (16) secured to the handle by a separate metallic or plastic pin 31, as set forth in claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the connection between the wheel 30 and the lever 12 for transforming the movement the lever 12 to the throttle. See page 6, lines 6-9 in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).
5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate both a lever and openings. See amended

Fig. 2.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "40" line 11, page 6 of the amendment.

7. The drawings are objected to because it appears that Fig. 2 shows three different ways or Species for connecting the lever or button 12 and 13 to the handle section 16. However, there are only one lever 12 and a button 13 and there should be only one way to secure each one of the button and lever to the handle in each Fig. Therefore, different species cannot be shown in the same Figure.

In amended Fig. 2, reference "22" denotes the lever 12. It should be noted that the reference number 22 should denote the openings in the support section 20.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not

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accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

8. The specification is objected to under 37 CFR 1.71 because it fails to teach two levers or two buttons. It should be noted that there is only a lever 12 attached to the handle and a safety button 13 attached to the handle 11. See Fig. 2 in the instant application. The specification also fails teach how the line wheel 30 is the handle section 16 transforms the movement in the lever 12. See page 6, lines 6-9. In fact, it is not clear how the line wheel 30 is connected to the lever 12. In addition, the specification fails to teach a button or a lever is connected to the pin 31 of the line wheel. It is not clear how the lever or the button is turn around the pin 31. See claim 9.

It is noted that applicant is disclosing three different alternatives for securing components in the handle section 16. It is assumed that applicant is disclosing three separate connections for securing the lever 12, the button 13, and the line wheel 31 to the handle section 16. It should be noted that these three separate connections are not an alternative for each connection. Fig. 2 shows the three different connections. If the connections are alternative connections for the lever, button, and line wheel, then each connection should be illustrated in a separate figure. In this case, there are three different species disclosed. Applicant has to provide a separate figure for each alternative connection and only claim the structure of one of the alternative connection or the species.

Claim Objections

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9. Claim 1 is objected to because of the following informalities: In claim 2, line 2, "the handle comprises two handle sections" should be --the handle comprises said two handle sections--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 1-10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, "the lever or button is secured in only one of the handle sections (16) so that the function of the lever or button is substantially independent of the position of the other handle" is confusing. It should be noted that the position of the handle 15 or 16 does not changed, since the both handle sections 15, 16 are secured together. Therefore, the function of the lever and the handle does nothing to do with the position of either handle section 15 or handle section 16. The function of the lever or the button cannot be independent from one of the handle section position, since both of the handle sections are permanently attached together. Therefore, there is not a second position for one handle section relative to the other handle section. Therefore, it is not clear what is the scope of the claim and how the button or the lever relates to the "other handle section." Regarding claim 1, "said lever or button is secured in only one of the handle sections" is not accurate. It should be noted that the handle portions are permanently attached together. Therefore, both handle portions or considered to be a single piece or element. If the lever is

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secured to one handle section, it is considered to be secured to the other handle section. The claims should recite the structure that secures the lever and the button to the handle.

Regarding claim 9, "a lever or a button is secured to the handle section (16) by a separate metallic or plastic pin" is confusing. Firstly, it is not clear whether this is a reference to the lever or button recited in claim or this is a reference to a new lever or button. Secondly, it appears that pin 31 is not used to secure a lever to the handle. In fact, the drawings do not show that a lever or a button is secured to the pin 31.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-5, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable Zerrer (4,761,939) in view of Lowe et al. (5,738,064), hereinafter Lowe.

Regarding claim 1, Zerrer teaches a handle 10 for a handheld engine powered tool 1 including at least a lever or a button 11, 12 for controlling the power of the tool 1. Zerrer also teaches that the handle is made of at least two handle sections 16, 17. Zerrer also teaches that the lever or the button 11, 12 is secured in only one of the handle sections 16 so that the function of the lever or button 11, 12 is substantially independent of the position of the other handle 17. See Fig. 1-4 and col. 2, lines 22-65 in Zerrer. Zerrer does not explicitly teach that the handle sections 16, 17 are permanently jointed together. However, the use of handle sections that permanently joined together is well known in the art such as taught by Lowe.

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Lowe teaches a portable power tool 10 including a handle 36 for housing at least a button or a lever 38, 40, 42 for controlling the power of the tool. Lowe also teaches that the handle is made of plastic and at least two sections. Lowe also teaches that the two sections of handle can be vibrationally welded together or can be joined together by any suitable means such as mechanical fasteners or adhesive. See Figs. 1-12 and col. 5, lines 5-10 in Lowe. It would have been obvious to a person of ordinary skill in the art to join the handle sections together in Zerrer's tool by welding, as taught by Lowe, in order to produce strong and air tight joints. In addition, it would have been obvious to a person of ordinary skill in the art to join the handle sections in Zerrer's tool together by welding or adhesive instead of fasteners, since Lowe teaches that the handle sections can be joined together by either welding or fasteners and welding can replace the fasteners and fasteners can replace welding.

Regarding claim 2, Zerrer teaches everything noted above including that the handle is provided with a lever 11 and a button 12.

Regarding claim 3, Zerrer, as modified above, teaches everything noted above including that the handle sections 36 are joined together either by welding or gluing. See page 5, lines 5-10 in Lowe.

Regarding claims 4- 5, Zerrer teaches everything noted above including that the lever 11 controls the throttle of the engine and a safety button 12 that stops the power to the engine if the safety button is pressed. Zerrer also teaches that the lever 11 is secured to the handle section 16 via a support member 34 extending from the handle. See Fig. 2 in Lowe. Zerrer also teaches that the lever and its related components is secured to the handle section 16 by a

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separate metallic pin 34 pressed into a prepared opening in the handle section 16 so that lever 11 and related components are turned around the metallic pin.

Comment

14. It is noted that claim 6 has not been rejected over prior art. However, in view of issues under 35 U.S.C. 112, second paragraph, and the objection to the specification under 37 CFR 1.71 and the drawing objections, the allowability of the claimed subject matter cannot be determined at this time.

Response to Amendment

15. Applicant's arguments filed on 08/23/06 have been fully considered but they are not persuasive. Applicant's arguments that Zerrer's apparatus requires an exact position of the second handle section for the lever 11 to operate correctly is not persuasive. The lever 11 is attached to handle section 16 and pivots about the support member 34. The lever 11 can function without the handle section 17. In addition, the position of the lever 17 a little up and down does not change the function of the lever 11. Furthermore, as stated above, similar to the present invention, the handle sections are connected together. Therefore, the function of the lever or the button handle cannot be independent from the position of one of the handle, since both handle sections are attached together. Therefore, there is no second position for one of the handle section relative to the other handle section.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

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MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (too-free).

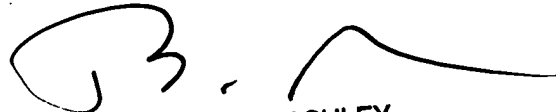
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GA/ga

March 30, 2007



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER